

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH ANN PAKENAS, guardian
of PATTI ROGERS, a legally incapacitated
individual,

Plaintiff,

Case No. 05-60152

v.

Hon. John Corbett O'Meara

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

**ORDER DENYING MOTION FOR CONTEMPT
WITHOUT PREJUDICE AND REFERRING POST-TRIAL
DISCOVERY ISSUES TO MAGISTRATE JUDGE**

Before the court is Defendant's motion for order of contempt and sanctions, filed September 17, 2010. Plaintiff filed a response on September 30, 2010. The court heard oral argument on March 3, 2011.

This case went to trial in 2009. The court granted Defendant's motion for judgment as a matter of law, and later denied Plaintiff's motion for a new trial. The court also granted Defendant's motion for attorney's fees in the amount of \$212,380, based upon its determination that Plaintiff's claim was "in some respect fraudulent or so excessive as to have no reasonable foundation."

Plaintiff filed a notice of appeal on October 8, 2009, but has not obtained a stay of proceedings or a bond. Defendant seeks to collect on its judgment and issued a subpoena for a creditor's examination of Plaintiff on January 22, 2010. Due to Plaintiff's illness and Defendant's belief that she failed to produce all requested documents, the creditor's examination

was rescheduled several times.

Defendant maintains that Plaintiff has repeatedly failed to produce all the documents requested by the subpoena. Plaintiff states that she has produced the documents. The parties have not articulated which specific document requests are in dispute. Without more specificity, the court is unable to make a determination regarding Plaintiff's compliance.

Accordingly, the parties shall proceed as follows. Counsel shall meet by **March 25, 2011**, to determine what issues remain in dispute. In a joint filing, the parties shall inform the court in writing of the disputed issues, including the specific documents requested and the reasons Plaintiff has not produced them, by **April 1, 2011**. The court will refer the disputed issues to the assigned magistrate judge for resolution.

The court will **DENY WITHOUT PREJUDICE** Defendant's motion for order of contempt and sanctions, to be revisited, as necessary, when the disputed issues have been resolved.

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: March 9, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, March 9, 2011, using the ECF system.

s/William Barkholz
Case Manager